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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,551	12/14/2000	Satoshi Kidooka	P20361	6566

7055 7590 09/24/2003  
GREENBLUM & BERNSTEIN, P.L.C.  
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EXAMINER

LAM, ANN Y

ART UNIT PAPER NUMBER

1641

DATE MAILED: 09/24/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/735,551

Applicant(s)

KIDOOKA, SATOSHI

Examiner

Ann Y. Lam

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 29 is/are allowed.
- 6) ☒ Claim(s) 6-12 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites that the second wall surface extends radially inwardly from the periphery of the first wall surface. This limitation is contrary to Applicant's specification, wherein it is believed that (22) is the second wall, and (23) is the first wall, (as is understood by Examiner according to explanations given by Applicant's representative in the telephone interview dated February 20, 2003.)

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-12 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Nita et al. 5,916,192.

Nita et al. disclose a liquid supply tube (62, Infusion part, in Figure 2); a treatment instrument channel (60, in Figure 2) configured to insertably accept the liquid supply

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tube; and a cap member (20 and 32) to be provided in a leading end of a spraying device, the leading end affixed to the liquid supply tube, the cap member comprising: a cylindrical portion defining an interior of the cap member, see Figure 3; and a leading end wall (see distal end of 20 and 32) at a leading end of the cylindrical portion, the leading end wall separating the interior of the cap member from an exterior thereof, the leading end wall comprising: a spray nozzle (see distal end of 20 and 32), a first wall surface (see distal end of 32) in the exterior of the cap member, the first wall surface extending radial outwardly from an outer periphery of the spray nozzle, and a second wall surface (see distal end of 16) in the exterior of the cap member, the second wall surface extending longitudinally outwardly from an outer periphery of the first wall surface.

As to claim 7, the first wall surface (distal end of 32) is conical, see Figure 3.

As to claim 8, the first wall surface is curved in section, see Figure 3.

As to claim 9, the first wall surface is planar in section, see Figure 3.

As to claim 10, the first wall surface is planar.

As to claim 11, the second wall surface (distal end of 16) extends radially inwardly from the periphery of the first wall surface.

As to claim 12, the second wall surface extends radially outwardly from the periphery of the first wall surface.

As to claim 30, the liquid supply tube (62, infusion part in Figure 2) is substantially coaxial with the spray nozzle.

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***Response to Arguments***

Applicant's arguments with respect to the above claims have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

Claims 1-5, and 29 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the combination of elements including a liquid rotating chamber configured to rotate liquid therein, and a spray nozzle was not found in the prior art search.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on M-Sat 11-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (703)305-3399. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

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A.L.



LONG V. LE  
SUPERVISORY PATENT EXAMINER  
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09/22/03